

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: SB 361a

52nd Legislature, 1st Session, 2015

Tracking Number: .199343.1

Short Title: Expand School Equivalency for Incarcerated

Sponsor(s): Senator Lisa A. Torraco

Analyst: Kevin Force

Date: March 16, 2015 (Revised)

AS AMENDED

The Senate Education Committee amendments:

- alter the title of the bill to address “enrolling in educational programs that may include a high school equivalency credential,” rather than “earning a high school equivalency credential”;
- delete the requirement in current law that the educational program provided though rule at the New Mexico Corrections Department (NMCD) be mandatory; and
- insert language requiring every inmate in the custody or supervision of NMCD to be assessed and placed in an educational program appropriate to each inmate’s academic capacity and need.

Original Bill Summary:

SB 361 proposes to amend the *Inmate Literacy Act* to:

- replace the term “general education diploma” with the term “high school equivalency credential”;
- remove the requirements that the New Mexico Corrections Department (NMCD) regulations for mandatory education programs apply only to inmates who:
 - commit a crime after the effective date of the *Inmate Literacy Act* (May 15, 1988); and
 - have at least 18 months of his or her sentence left to serve; and
- remove NMCD’s option to:
 - exclude from participation in educational programs inmates who have been incarcerated for fewer than 90 days;
 - exclude inmates who are classified as “minimum custody”; and
 - defer educational program requirements for inmates with sentences of 10 years or longer.

Original Fiscal Impact:

SB 361 does not contain an appropriation.

Original Fiscal Issues:

According to NMCD, the department lacks the resources necessary to fulfill all the requirements of the bill. Specifically, the department would require:

- additional investment of approximately \$8.0 million to implement a functional information technology (IT) system sufficient to allow the Education Bureau of the department's Recidivism Reduction Division to access and track the outcome of NMCD's educational programs, as well as the advancement of inmates across achievement levels; and
- undetermined additional funds to hire any necessary additional teaching staff, or provide for overtime or compensatory time payment for existing staff.

Moreover, NMCD is concerned that the devotion of most of its educational resources to high school equivalency will hamper its efforts to offer inmates training in basic adult education and literacy (see "Substantive Issues," below).

As noted by the Higher Education Department (HED), adult education in New Mexico's prisons is partially funded as a share of the state's adult education grant from the US Department of Education. Increases in costs associated with the provisions of the bill may result in a loss of funding to the other adult education programs administered by the state.

Original Technical Issues:

HED notes that the bill is unclear as to whether its provisions include, under "institutions operated by the department," those state facilities that are operated by private contractors.

Original Substantive Issues:

During the 2014 Regular Legislative Session, the Legislative Education Study Committee endorsed, the Legislature passed, and the Governor signed Laws 2014, Chapter 31, which enacted a temporary provision to change all references to "general education diploma," and similar terms, to "high school equivalency credential." SB 361 would make those changes permanent with respect to the provisions of the *Inmate Literacy Act*.

As noted by NMCD:

- The department already requires all of its inmates who do not have a high school diploma, or its equivalent, to be enrolled in academic programming.
- By removing both exemptions and optional exceptions to the academic program requirements, the bill essentially requires all inmates to be enrolled immediately in a high school equivalency program, regardless of the existing academic achievement of the inmates, a requirement that is unrealistic, because:

- most inmates under NMCD’s supervision enter the system at the elementary school level, necessitating the fulfillment of more rudimentary educational needs before progression to high school equivalency is appropriate; and
 - NMCD requires the flexibility and resources to offer more basic education to its inmates, allowing for functional literacy needed for the completion of job applications and inmates’ participation in their children’s education, among other basic everyday tasks.
- The effect of the bill may result in a shortage of teachers and other educational personnel, as well as creating a backlog of inmates waiting to participate in the now-required program.
 - A more prudent approach may be to amend the bill to allow NMCD more discretion to direct its inmates to the educational program that is most appropriate to the inmates’ needs and existing educational attainment.

Background:

According to the Justice Policy Institute:¹

- graduation rates are associated with positive public safety outcomes, noting that relatively small increases in male high school graduation can produce significant annual savings in crime-related expenses;
- states with higher levels of educational attainment enjoy crime rates lower than the national average; and
- higher rates of incarceration, higher crime rates, and low educational attainment tend to be concentrated among minority populations, who already are more likely to encounter barriers to educational opportunities.

According to a report in the *American Economic Review*:²

- just a one-year increase in average educational attainment can result in reductions in violent crimes by nearly 30 percent;
- education increases returns to legitimate work and raises the costs associated with choosing to engage in illegal behavior; and
- an increase of just 1.0 percent in high school completion among men aged 20 to 60 would save the country up to \$1.4 billion in reduced costs related to crime.

In 2013, the Alliance for Excellent Education reported³ that:

- a reduction of 5.0 percent in male high school graduation rates would produce an annual savings of nearly \$18.5 billion in crime-related expenses;
- combined with increased productivity of graduates, this savings could result in annual national savings of \$19.7 billion; and

¹ The Justice Policy Institute is a Washington, DC-based organization dedicated to reducing the nation’s reliance on incarceration. Please see www.justicepolicy.org.

² Lochner, Lance, and Enrico Moretti, 2004. “The Effect of Education on Crime: Evidence from Prison Inmates, Arrests, and Self-Reports.” *American Economic Review*, 94(1), at: <http://www.nber.org/papers/w8605.pdf>.

³ Alliance for Excellent Education, 2013. *Saving Futures, Saving Dollars: The Impact of Education on Crime Reduction and Earnings*. Washington, DC, at: <http://www.all4ed.org/publications/SavingFutures.pdf>.

- the same factors could result in savings to New Mexico of more than \$218.8 million, annually.

Committee Referrals:

SEC/SJC/HEC/HJC

Related Bills:

SB 357 *High School Equivalency Credentials*

CS/SB 363a *Expectant & Postpartum Prisoners Act*